

Date of Hearing: June 28, 2011

ASSEMBLY COMMITTEE ON VETERANS AFFAIRS

Paul J. Cook, Chair

SB 180 (Corbett) – As Amended: May 3, 2011

SUBJECT: Consumer transactions: public social services: unreasonable fees.

SUMMARY: This bill adds to the definition of “public social services” those activities and functions administered or supervised by the United States Department of Veterans Affairs (“USDVA”) and the California Department of Veterans Affairs (“CDVA”).

EXISTING LAW: Existing federal law prohibits the preparation, presentation, or prosecution of any claim under laws administered by the Secretary of the USDVA unless that individual has been recognized for such purposes by the Secretary. (38 U.S.C. Section 5901) Existing federal law prohibits charging fees for the aid, assistance, or preparation of veteran’s benefits applications. (38 U.S.C. Section 5904)

Existing law provides that it is an unfair or deceptive trade practice for any person to charge or receive an unreasonable fee, as defined, to prepare or aid an applicant or recipient in the procurement, maintenance, or securing of public social services. (Civil Code Section 1770(24).)

Existing law defines “public social services” as those activities and functions of state and local government administered or supervised by the Department of Health Care Services, the Department of Public Health, or the Department of Social Services, and involved in providing aid or services, or both, including health care services and medical assistance, to those persons who, because of their economic circumstances or social condition, are in need of that aid or those services and may benefit from them.

Existing law requires the court to award treble damages to the plaintiff whenever it is proven by a preponderance of the evidence that a defendant has charged or received an unreasonable fee for those services. (Civil Code Section 1780)

This bill includes in the definition of “public social services” activities and functions administered or supervised by the USDVA and the CDVA involved in providing aid or services, or both, to veterans, including pension benefits.

FISCAL EFFECT: Unknown. This bill is not keyed fiscal.

COMMENTS: The USDVA Aid and Attendance program has asset and income limits for eligibility. A couple must neither have assets that exceed \$80,000, excluding a residence, nor an income of more than \$1,900 a month to be eligible. So-called "financial advisors" target those with too much wealth to qualify for this benefit. They often counsel them to place their assets into irrevocable trusts and/or deferred annuities, effectively separating them from their assets in the event of a future need. These advisors often charge large fees for their services.

According to the author:

“The Aid and Attendance Program administered by the federal Veterans Administration (VA) is a safety net for low wealth veterans and their spouses who cannot afford to pay for medical supplies or in-home healthcare. ...

Financial predators target high wealth veterans who otherwise would not qualify for the [Aid and Attendance Program] and counsel them how to move their assets into ‘safe harbors’ such as irrevocable trusts and deferred annuities. These advisors charge \$10,000 or even more for their services. ...

SB 180 prohibits anyone from charging an unreasonable fee for assisting a person to qualify for a federal pension benefit program, such as Veterans Aid and Attendance. SB 180 diminishes the incentive of financial advisors who counsel seniors to artificially impoverish themselves to qualify for a government benefit.”

This bill will discourage the practices of charging an unreasonable fee and preying upon veterans and their families. In addition it will discourage the highly ethically and legally questionable practice of artificial impoverishment in order to obtain a government benefit to which the recipient would not otherwise be entitled.

REGISTERED SUPPORT / OPPOSITION:

Support

California Advocates for Nursing Home Reform (source)
Consumer Attorneys of California
Alameda County Veterans Affairs Commission
California State Commanders Veterans Council
National Association of Social Workers

Opposition

None on file.

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